

# HOUSE BILL No. 1403

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-28-37; IC 6-3.5-7-28; IC 36-7.6.

**Synopsis:** Regional cities. Establishes the Indiana regional city fund (fund) to provide grants and loans to regional development authorities. Provides that the Indiana economic development corporation administers the fund. Provides that a city or town that is eligible to become a second class city may become a member of a regional development authority.

**Effective:** July 1, 2015.

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January 14, 2015, read first time and referred to Committee on Ways and Means.

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First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1403

A BILL FOR AN ACT to amend the Indiana Code concerning local government and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 5-28-37 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2015]:  
4 **Chapter 37. Indiana Regional City Fund**  
5 **Sec. 1. The following definitions apply throughout this chapter:**  
6 (1) "Development authority" includes both:  
7 (A) a development authority as defined in IC 36-7.5-1-8;  
8 and  
9 (B) a development authority as defined in IC 36-7.6-1-8.  
10 (2) "Fund" refers to the Indiana regional city fund established  
11 by section 2 of this chapter.  
12 **Sec. 2. (a) The Indiana regional city fund is established within**  
13 **the state treasury to provide grants or loans to support proposals**  
14 **for economic development.**  
15 (b) The fund consists of:



- (1) appropriations from the general assembly;
- (2) proceeds of bonds issued by the Indiana finance authority under IC 4-4-11.4 for deposit in the fund; and
- (3) loan repayments.

(c) The corporation shall administer the fund. The following may be paid from money in the fund:

- (1) Expenses of administering the fund.
- (2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) Earnings from loans made under this chapter shall be deposited in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the state general fund.

(f) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter.

(g) Money in the fund not otherwise appropriated for the purpose of the fund is annually appropriated for the purpose of the fund.

**Sec. 3. (a) The board shall form a strategic review committee to review applications that are submitted under this chapter.**

**(b) The board may invite employees of state agencies and outside experts to:**

- (1) sit on the strategic review committee; or**
- (2) present analysis or opinions about any aspect of an application under review.**

**An employee of a state agency who sits on the strategic review committee or otherwise participates in the review of an application may not receive compensation for the employee's service before or with the strategic review committee.**

**Sec. 4. (a) A development authority may submit an application to the corporation.**

**(b) A successful applicant must meet the requirements of this section and be approved by the board. An application for a grant or loan from the fund must be made on an application form prescribed by the board. An applicant shall provide all information that the board finds necessary to make the determinations required by this chapter.**

**(c) All applications must include the following:**



- (1) A comprehensive development plan and timeline.
- (2) A detailed financial analysis that includes the commitment of resources and return on investment analysis by those entities that will be involved in funding the project for which the grant or loan is sought.
- (3) A demonstration of the regional impact that the grant or loan is expected to have.
- (4) Any other information that the board considers appropriate.

An applicant for a grant or loan from the fund may request that certain information that is submitted by the applicant be kept confidential.

**Sec. 5. (a) The board has the following powers:**

- (1) To accept, analyze, and approve applications under this chapter.
- (2) To contract with experts for advice and counsel.
- (3) To employ staff to assist in carrying out this chapter, including providing assistance to applicants who wish to apply for a grant or loan from the fund, analyzing proposals, working with experts engaged by the board, and preparing reports and recommendations for the board.
- (4) To approve applications.

**(b) The board shall consider the following when reviewing applications to the fund:**

- (1) Which projects have the greatest economic development potential.
- (2) The degree of regional collaboration.
- (3) The level of state financial commitment and potential return on investment.

**(c) The board shall make final funding determinations for applications.**

**(d) The board may not approve an application unless the application has received a positive recommendation from the strategic review committee.**

**Sec. 6. The board may use money in the fund to cover administrative expenses incurred in carrying out the requirements of this chapter.**

**Sec. 7. The board shall submit an annual report to the legislative council before September 1 of each year. The report must be in an electronic format under IC 5-14-6 and must contain the following information for each development authority that received a grant or loan from the fund in the preceding state fiscal year:**



1           **(1) The name of the development authority.**

2           **(2) The project for which the grant or loan was awarded to**  
 3           **the development authority.**

4           **(3) The amount of the grant or loan disbursed to the**  
 5           **development authority.**

6           SECTION 2. IC 6-3.5-7-28, AS AMENDED BY P.L.137-2012,  
 7           SECTION 108, IS AMENDED TO READ AS FOLLOWS  
 8           [EFFECTIVE JULY 1, 2015]: Sec. 28. (a) This section applies only to  
 9           a county that is a member of a regional development authority under  
 10          IC 36-7.6.

11          (b) In addition to the rates permitted by section 5 of this chapter, the  
 12          entity that imposed the county economic development income tax  
 13          under section 5 of this chapter (or, in the case of a county that has not  
 14          imposed the county economic development income tax, the entity that  
 15          may impose the county economic development income tax under  
 16          section 5(a)(3) of this chapter) may by ordinance impose an additional  
 17          county economic development income tax at a rate of:

18               (1) in the case of a county described in ~~IC 36-7.6-4-2(b)(2)~~,  
 19               **IC 36-7.6-4-2(c)(2)**, twenty-five thousandths of one percent  
 20               (0.025%); or

21               (2) in the case of any other county to which this section applies,  
 22               five-hundredths of one percent (0.05%);

23          on the adjusted gross income of county taxpayers.

24          (c) If an additional county economic development income tax is  
 25          imposed under this section, the county treasurer shall establish a county  
 26          regional development authority fund. Notwithstanding any other  
 27          provision of this chapter, the county economic development income tax  
 28          revenues derived from the additional county economic development  
 29          income tax imposed under this section must be deposited in the county  
 30          regional development authority fund before any certified distributions  
 31          are made under section 12 of this chapter.

32          (d) County economic development income tax revenues derived  
 33          from the additional county economic development income tax imposed  
 34          under this section and deposited in the county regional development  
 35          authority fund:

36               (1) shall, not more than thirty (30) days after being deposited in  
 37               the county regional development authority fund, be transferred as  
 38               provided in IC 36-7.6-4-2 to the development fund of the regional  
 39               development authority for which the county is a member; and

40               (2) may not be considered by the department of local government  
 41               finance in determining the county's maximum permissible  
 42               property tax levy under IC 6-1.1-18.5.



SECTION 3. IC 36-7.6-1-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 12.5. "Qualified city" means:**

**(1) a second class city; or**

**(2) a city or town that is eligible to become a second class city.**

SECTION 4. IC 36-7.6-2-3, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) Subject to the provisions of this article, regional development authorities may be established under subsection (b), (c), ~~or~~ (d), **or (e).**

(b) A development authority may be established by two (2) or more counties that are located in the same economic growth region.

(c) A development authority may be established by:

(1) two (2) or more counties that are located in the same economic growth region; and

(2) one (1) or more counties that:

(A) are not located in the same economic growth region as the counties described in subdivision (1); and

(B) are adjacent to the economic growth region containing the counties described in subdivision (1).

(d) A development authority may be established by:

(1) one (1) or more counties; and

(2) one (1) or more ~~second class~~ **qualified** cities that:

(A) are not located in the county or counties described in subdivision (1); and

(B) are located in the same economic growth region as the county or counties described in subdivision (1).

**(e) A development authority may be established by two (2) or more qualified cities.**

~~(e)~~ **(f)** A county or ~~second class~~ **qualified** city may participate in the establishment of a development authority under this section and become a member of the development authority only if the fiscal body of the county or ~~second class~~ **qualified** city adopts an ordinance authorizing the county or ~~second class~~ **qualified** city to participate in the establishment of the development authority.

~~(f)~~ **(g)** A county may be a member of a development authority only if the county is contiguous to at least one (1) other county that is a member of the development authority. A ~~second class~~ **qualified** city may be a member of a development authority only if the county in which the ~~second class~~ **qualified** city is located is contiguous to at least one (1) other county that is a member of the development authority.

~~(g)~~ **(h)** Notwithstanding any other provision, if a county becomes a



member of a development authority, each municipality in the county also becomes a member of the development authority.

~~(h)~~ **(i)** Not more than two (2) development authorities may be established in a particular economic growth region. For purposes of this subsection, a development authority is considered to be established in a particular economic growth region if a county or municipality located in the economic growth region is a member of a development authority.

~~(i)~~ **(j)** A county or municipality may be a member of only one (1) development authority.

~~(j)~~ **(k)** A county or municipality that is a member of the northwest Indiana regional development authority under IC 36-7.5 may not be a member of a development authority under this article.

SECTION 5. IC 36-7.6-2-4, AS AMENDED BY P.L.3-2008, SECTION 265, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) A county or ~~second class~~ **qualified** city that:

(1) is not a member of a development authority; and

(2) was eligible to participate in the establishment of a particular development authority established under this article; may join that development authority under this section.

(b) A county or ~~second class~~ **qualified** city described in subsection (a) may join a development authority under this section only if:

(1) the fiscal body of the county or ~~second class~~ **qualified** city adopts an ordinance authorizing the county or ~~second class~~ **qualified** city to become a member of the development authority; and

(2) after the fiscal body adopts an ordinance under subdivision (1), the development board of the development authority adopts a resolution authorizing the county or ~~second class~~ **qualified** city to become a member of the development authority.

(c) A county or ~~second class~~ **qualified** city becomes a member of a development authority on January 1 of the year following the year in which the development board adopts a resolution under subsection (b)(2) authorizing the county or ~~second class~~ **qualified** city to become a member of the development authority.

(d) The executive of a county or ~~second class~~ **qualified** city that becomes a member of a development authority under this section is entitled to appoint a member to the development board under section 7 of this chapter.

(e) A county or ~~second class~~ **qualified** city may not join a development authority under this section if joining the development authority would violate the requirement in section 3~~(h)~~ **3(i)** of this



chapter that not more than two (2) development authorities may be established in a particular economic growth region.

(f) If a county joins a development authority under this section, each municipality in the county also becomes a member of the development authority.

SECTION 6. IC 36-7.6-2-5, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) This section applies to the following:

(1) A county that participates in the establishment of a development authority under section 3 of this chapter or that joins a development authority under section 4 of this chapter.

(2) A ~~second class~~ **qualified** city that participates in the establishment of a development authority under section ~~3(d)~~ **3** of this chapter or that joins a development authority under section 4 of this chapter.

(b) A county or ~~second class~~ **qualified** city described in subsection (a) shall be a member of the development authority for ~~five (5)~~ **eight (8)** years after the date the county or ~~second class~~ **qualified** city becomes a member of the development authority.

(c) At least twelve (12) months and not more than eighteen (18) months before the end of a ~~five (5) year~~ **county's or qualified city's membership** period under subsection (b) **or this subsection**, the fiscal body of the county or ~~second class~~ **qualified** city described in subsection (a) must adopt a resolution that:

(1) commits the county or ~~second class~~ **qualified** city to an additional five (5) years as a member of the development authority, beginning at the end of the current ~~five (5) year~~ **membership** period; or

(2) withdraws the county or ~~second class~~ **qualified** city from membership in the development authority not earlier than the end of the current ~~five (5) year~~ **membership** period.

(d) The fiscal body of a county or ~~second class~~ **qualified** city described in subsection (a) must adopt a resolution under subsection (c) during each ~~five (5) year~~ **membership** period in which the county or ~~second class~~ **qualified** city is a member of the development authority.

(e) A county or ~~second class~~ **qualified** city described in subsection (a) may withdraw from a development authority as provided in this section without the approval of the development board.

(f) If at the end of a ~~five (5) year~~ **county's membership** period a county described in subsection (a) does not withdraw from the development authority under this section and remains a member of the





development authority, the municipalities in the county may not withdraw from the development authority and remain members of the development authority.

(g) If at the end of a ~~five (5)~~ **year membership** period a county described in subsection (a) withdraws from the development authority under this section, the municipalities in the county are also withdrawn from the development authority on the effective date of the county's withdrawal.

SECTION 7. IC 36-7.6-2-7, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) A development authority is governed by a development board appointed under this section.

(b) A development board is composed of ~~the following at least three (3), but not more than five (5),~~ **members appointed by the members of the development authority.**

(1) ~~One (1) member appointed by the executive of each county that is a member of the development authority.~~

(2) ~~One (1) member appointed by the executive of each second class city that is a member of the development authority.~~

(3) ~~If the development authority receives or will receive an appropriation, a grant, or a distribution of money from the state, one (1) or more members appointed by the governor under section 8 of this chapter, if approved by the development board.~~

(c) A member appointed to the development board:

(1) **may not be an elected official or an employee of a participating county or municipality; and**

(2) **must have knowledge of and at least five (5) years professional work experience in at least one (1) of the following:**

~~(1) (A) Rail Transportation. or air transportation.~~

~~(2) (B) Regional economic development.~~

~~(3) (C) Business or finance.~~

**(D) Private, nonprofit sector, or academia.**

SECTION 8. IC 36-7.6-2-8 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 8: (a) ~~If a development authority receives or will receive an appropriation, a grant, or a distribution of money from the state, the development board may adopt a resolution to add to the development board one (1) or more members appointed by the governor.~~

(b) ~~If a development board adopts a resolution under this section, the governor shall appoint to the development board the number of members specified in the resolution.~~

(c) ~~A member appointed by the governor under this section must meet the knowledge and professional work experience requirements of~~



1 section 7(c) of this chapter.

2 (d) If the governor appoints a member to a development board under  
3 this section, the governor retains the authority to appoint a member to  
4 the development board regardless of whether the state continues to  
5 appropriate, grant, or distribute money to the development authority.

6 SECTION 9. IC 36-7.6-3-5, AS ADDED BY P.L.232-2007,  
7 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2015]: Sec. 5. (a) A development authority shall prepare a  
9 comprehensive strategic development plan that includes detailed  
10 information concerning the following:

11 (1) The proposed projects to be undertaken or financed by the  
12 development authority.

13 (2) The following information for each project included under  
14 subdivision (1):

15 (A) Timeline and budget.

16 (B) The return on investment.

17 (C) The projected or expected need for an ongoing subsidy.

18 (D) Any projected or expected federal matching funds.

19 (b) The development authority shall, not later than January 1 of the  
20 second year following the year in which the development authority is  
21 established, submit the comprehensive strategic development plan for  
22 review by the budget committee and approval by the director of the  
23 office of management and budget. **However, a development authority**  
24 **that has already submitted its comprehensive strategic**  
25 **development plan as part of an application for a grant or loan**  
26 **under IC 5-28-37 is not required to resubmit its comprehensive**  
27 **strategic development plan under this subsection.**

28 SECTION 10. IC 36-7.6-4-1, AS ADDED BY P.L.232-2007,  
29 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2015]: Sec. 1. (a) A development board shall establish and  
31 administer a development authority fund.

32 (b) A development authority fund consists of the following:

33 (1) Amounts transferred ~~under section 2 of this chapter to the~~  
34 **fund** by each county and municipality that is a member of the  
35 development authority.

36 (2) Appropriations, grants, or other distributions made to the fund  
37 by the state.

38 (3) Money received from the federal government.

39 (4) Gifts, contributions, donations, and private grants made to the  
40 fund.

41 (c) On the date a development authority issues bonds for any  
42 purpose under this article, which are secured in whole or in part by the



development authority fund, the development board shall establish and administer two (2) accounts within the development authority fund. The accounts must be the general account and the lease rental account. After the accounts are established, all money transferred to the development authority fund under subsection (b)(1) shall be deposited in the lease rental account and used only for the payment of or to secure the payment of obligations of an eligible political subdivision under a lease entered into by the eligible political subdivision and the development authority under this chapter. However, any money deposited in the lease rental account and not used for the purposes of this subsection shall be returned by the secretary-treasurer of the development authority to the unit that contributed the money to the development authority.

(d) Notwithstanding subsection (c), if the amount of all money transferred to a development authority fund under subsection (b)(1) for deposit in the lease rental account in any one (1) calendar year is greater than an amount equal to the product of:

(1) one and twenty-five hundredths (1.25); multiplied by

(2) the total of the highest annual debt service on any bonds then outstanding to their final maturity date, which have been issued under this article and are not secured by a lease, plus the highest annual lease payments on any leases to their final maturity, which are then in effect under this article;

then all or a part of the excess may instead be deposited in the general account.

(e) All other money and revenue of a development authority may be deposited in the general account or the lease rental account at the discretion of the development board. Money on deposit in the lease rental account may be used only to make rental payments on leases entered into by the development authority under this article. Money on deposit in the general account may be used for any purpose authorized by this article.

(f) A development authority fund shall be administered by the development authority that established the development authority fund.

(g) Money in a development authority fund shall be used by the development authority to carry out this article and does not revert to any other fund.

SECTION 11. IC 36-7.6-4-2, AS AMENDED BY P.L.172-2011, SECTION 158, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. **(a) This section applies only to a development authority and its member counties and municipalities to the extent necessary to make required payments**



1 **and maintain a required reserve for debt obligations or leases that**  
 2 **were issued or entered into by the development authority before**  
 3 **July 1, 2015.**

4 ~~(a)~~ **(b)** Beginning January 1 of the year following the year in which  
 5 a development authority is established, the fiscal officer of each county  
 6 and each municipality that is a member of the development authority  
 7 shall transfer the amount determined under subsection ~~(b)~~ **(c)** to the  
 8 development authority for deposit in the development authority fund.

9 ~~(b)~~ **(c)** The amount of the transfer required each year by subsection  
 10 ~~(a)~~ **(b)** from each county and each municipality is equal to the  
 11 following:

12 (1) Except as provided in subdivision (2), the amount that would  
 13 be distributed to the county or the municipality as certified  
 14 distributions of county economic development income tax  
 15 revenue raised from a county economic development income tax  
 16 rate of five-hundredths of one percent (0.05%) in the county.

17 (2) In the case of a county or municipality that becomes a member  
 18 of a development authority after June 30, 2011, and before July 1,  
 19 2013, the amount that would be distributed to the county or  
 20 municipality as certified distributions of county economic  
 21 development income tax revenue raised from a county economic  
 22 development income tax rate of twenty-five thousandths of one  
 23 percent (0.025%) in the county.

24 ~~(c)~~ **(d)** Notwithstanding subsection ~~(b)~~ **(c)**, if the additional county  
 25 economic development income tax under IC 6-3.5-7-28 is in effect in  
 26 a county, the obligations of the county and each municipality in the  
 27 county under this section are satisfied by the transfer to the  
 28 development fund of all county economic development income tax  
 29 revenue derived from the additional tax and deposited in the county  
 30 regional development authority fund.

31 ~~(d)~~ **(e)** The following apply to the transfers required by this section:

32 (1) The transfers shall be made without appropriation by the fiscal  
 33 body of the county or the fiscal body of the municipality.

34 (2) Except as provided in subdivision (3), the fiscal officer of  
 35 each county and each municipality that is a member of the  
 36 development authority shall transfer twenty-five percent (25%) of  
 37 the total transfers due for the year before the last business day of  
 38 January, April, July, and October of each year.

39 (3) County economic development income tax revenue derived  
 40 from the additional county economic development income tax  
 41 under IC 6-3.5-7-28 must be transferred to the development fund  
 42 not more than thirty (30) days after being deposited in the county



regional development fund.

(4) This subdivision does not apply to a county in which the additional county economic development income tax under IC 6-3.5-7-28 has been imposed or to any municipality in the county. The transfers required by this section may be made from any local revenue (other than property tax revenue) of the county or municipality, including excise tax revenue, income tax revenue, local option tax revenue, riverboat tax revenue, distributions, incentive payments, or money deposited in the county's or municipality's local major moves construction fund under IC 8-14-16.

SECTION 12. IC 36-7.6-4-16, AS AMENDED BY P.L.146-2008, SECTION 775, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 16. (a) This section applies if:

**(1) a development authority issued a debt obligation or entered into a lease before July 1, 2015, that has not been paid in full;**

~~(+)~~ **(2)** a county or municipality that is a member of a development authority fails to make a transfer or a part of a transfer required by section 2 of this chapter; and

~~(2)~~ **(3)** the development authority has bonds or other debt or lease obligations outstanding.

(b) The treasurer of state shall do the following:

(1) Withhold an amount equal to the amount of the transfer or part of the transfer under section 2 of this chapter that the county or municipality failed to make from money in the possession of the state that would otherwise be available for distribution to the county or municipality under any other law.

(2) Pay the amount withheld under subdivision (1) to the development authority.

SECTION 13. IC 36-7.6-4-17, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 17. **(a) This section applies only to a development authority and its member counties and municipalities to the extent necessary to make required payments and maintain a required reserve for debt obligations or leases that were issued or entered into by the development authority before July 1, 2015.**

~~(a)~~ **(b)** If there are bonds outstanding that have been issued under this article by a development authority and are not secured by a lease, or if there are leases in effect under this article, the general assembly covenants that it will not reduce the amount required to be transferred under section 2 of this chapter from a county or municipality that is a



1 member of a development authority to the development authority below  
2 an amount that would produce one and twenty-five hundredths (1.25)  
3 multiplied by the total of the highest annual debt service on the bonds  
4 to their final maturity plus the highest annual lease payments on the  
5 leases to their final termination date.

6 ~~(b)~~ (c) The general assembly also covenants that it will not:

7 (1) repeal or amend this article in a manner that would adversely  
8 affect owners of outstanding bonds, or the payment of lease  
9 rentals, secured by the amounts pledged under this chapter; or

10 (2) in any way impair the rights of owners of bonds of a  
11 development authority, or the owners of bonds secured by lease  
12 rentals, secured by a pledge of revenues under this chapter;

13 except as otherwise set forth in subsection ~~(a)~~: **(b)**.

